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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,499	09/08/2003	Umesh Mahajan	112025-0130C1	9346
24267	7590	12/08/2006	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,499

Applicant(s)

MAHAJAN ET AL

Examiner

Duc T. Duong

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23, 25, 28, 29, 31, 33, 35, 37 and 40 is/are rejected.
- 7) ☒ Claim(s) 24, 26, 27, 30, 32, 34, 36, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 20-23, 25, 28, 29, 31, 33, 35, 37, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Gai et al (US Patent 6,032,194).

Regarding to claims 20, 28, 34, and 40, Gai discloses a computer readable medium (fig. 2 col. 8 lines 45-50) containing executable program instructions for use by an intermediate network device 214 having a plurality of ports 230 for receiving and forwarding network messages (fig. 2 col. 8 lines 3-5), the executable program instructions comprising program instructions for configuring one or more ports as access ports 230 (col. 10 lines 1-5); configuring one or more access ports as rapid forwarding ports 230 (col. 11 lines 8-15); identifying all ports that have been configured

Art Unit: 2616

as access ports with rapid forwarding (fig. 2 col. 8 lines 24-39); and upon initialization of the device (detect link failure), placing each identified access port 230 with rapid forwarding directly to a forwarding spanning tree port state, without transitioning such identified ports between any intermediary spanning tree port states, so that network messages may be received and forwarded by such identified ports immediately (fig. 3D col. 12 lines 32-42).

Regarding to claims 21, 29, and 35, Gai discloses monitoring each of the one or more access ports configured with rapid forwarding for receipt of a configuration bridge protocol data unit (BPDU) message and in response to receiving a BPDU message at one of the access ports configured with rapid forwarding, placing the respective access port in a blocking spanning tree port state (fig. 3E col. 14 lines 25-51).

Regarding to claims 22, Gai discloses the intermediate network device has a memory 240 and the configuration of ports as access ports with rapid forwarding is stored at the memory (fig. 2 col. 8 lines 12-24).

Regarding to claims 23, 31, and 37, Gai discloses placing one or more other ports in a listening spanning tree port state (fig. 3D col. 10 lines 1-5), upon initialization of the device.

Regarding to claims 25 and 33, Gai discloses generating and issuing one or more configuration bridge protocol data unit (BPDU) messages from each access port configured as rapid forwarding (col. 10 lines 1-25).

***Response to Arguments***

3. Applicant's arguments filed October 5, 2006 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the trunk ports are different than access ports) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding to applicant's argument on page 14, Gai fails to teach for "configuring one or more access ports as rapid forwarding ports". In response, examiner would like to direct applicant's attention to col. 11 lines 8-15. Herein, Gai discloses the ports 230 of each switch are configured as listening state (access) and once the root of a switch is determined only one port of each other switch is configured as forwarding. Thus, based on the reasons set forth here the rejections are maintained.

***Allowable Subject Matter***

4. Claims 24, 26, 27, 30, 32, 34, 36, 38, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 2616

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal line extending to the right.

HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600